

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 24TH MAY 2007 / 3RD JY AISHTA 1929

WP(C).No. 9561 of 2006(L)

PETITIONER:

SHINU.N, SHINU MANZIL,
PUTHENKADAVU CHERUNNIYOOR.P.O,
VARKALA, TRIVANDRUM-695 142.

BY ADV. SRI.SIBY MATHEW

RESPONDENTS:

THE UNIVERSITY OF KERALA,
TRIVANDRUM, REP. BY ITS REGISTRAR.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC KERALA UTY.

SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/9/2006,
THE COURT ON 24/05/2007 DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1; TRUE COPY OF DEGREE CERTIFICATE ISSUED TO PETR.
EXT.P2: TRUE COPY OF RANK CERTIFICATE
EXT.P3: TRUE COPY OF N.E.T. CERTIFICATE
EXT.P4: COPY OF CERTIFICATE OF JUNIOR RESEARCH FELLOWSHIP.
EXT.P5: TRUE COPY OF ELIGIBILITY CERTIFICATE ISSUED TO PER.
EXT.P6: TRUE COPY OF NOTIFICATION DT. 28/9/2005.
EXT.P7: TRUE COPY OF LETTER DT. 26/12/2005.
EXT.P8: TRUE COPY OF REPRESENTTIN DT. 4/1/2006.
EXT.P9: TRUE COPY OF DO. DT. 7/1/2006.
EXT.P10: TRUE COPY OF REC EIPTS EVIDENCING DESPATCH OF EXTS.P8 & P9.
EXT.P11: TRUE COPY OF REGULATIONS RELATING TO QUALIFICATION
EXT.P12: TRUE COPY OF CERTIFICTE ISSUED BY CUSAT.
EXT.P13: TRUE COPY FO LETTER DT. 3/11/1980.
EXT.P14: TRUE COPY OF ORDER DT. 3/10/1981.
EXT.P15: TRUE COPY OF RELEVANT PORTION OF PROSPECTUS OF CUSAT..
EXT.P16: DO. OF KERALA UNIVERSITY.
EXT.P17: TRUE COPY OF CORE OF SUBJECTS INCLUDED IN MANGALOR UNIVERSITY

RESPONDENTS' EXHIBITS

EXT.R1(A): TRUE COPY OF EQUIVALENCY CERTIFICATE DT.,. 2/4/2003.

A.K. Basheer, J.

W.P(C) No. 9561 of 2006

Dated this the 24th day of May, 2007.

J U D G M E N T

The short question that arises for consideration in this writ petition is whether the University of Kerala was justified in rejecting petitioner's application for the post of Lecturer in Geology on the ground that Master's Degree in Marine Geology obtained by her is not equivalent to Master's Degree in Geology. Petitioner prays for a declaration that "M.Sc (Marine Geology Regular) Degree is sufficient for the purpose of appointment of teachers in Geology in the University of Kerala and affiliated colleges of the said University".

2. Petitioner obtained her Master's Degree in Marine Geology (Regular) from the Cochin University of Science and Technology (CUSAT). She was placed in First Class. It is also not in dispute that petitioner has passed National Eligibility Test conducted by the University Grants Commission. She has also passed Junior Research Fellowship (JRF) and eligibility for Lectureship (National Eligibility Test) conducted by the Council of Science and Industrial Research.

3. In response to Ext.P6 notification issued by the University of Kerala, petitioner had applied for the post of Lecturer in Geology. The qualifications prescribed for the post which are relevant for the purpose of this case are extracted hereunder:

Lecturer: Good academic record with at least
55% marks or an equivalent grade at Masters
Degree level in the relevant subject from an

Indian University or an equivalent Degree from a Foreign University.

Note: 1: Candidates who have completed the above qualification should have cleared the eligibility test for Lectureship conducted by the UGC, CSIR or similar tests accredited by the UGC.”

By Ext.P7 communication dated December 26, 2005 the University informed the petitioner that her application had been rejected since she did not have the “prescribed qualification”. It is in the above circumstances that petitioner has preferred this writ petition contending inter alia that the Masters' degree obtained by her in Marine Geology is not only equivalent to the Master's Degree in Geology, but in fact the curriculum and syllabus of the former are more in content and substance than the latter. It is the case of the petitioner that a comparative perusal of the syllabi of the two courses concerned will undoubtedly show that a Post Graduate in Marine Geology like the petitioner would be well equipped to handle classes for students in Geology. Exts.P15 and P16 have been pressed into service by the petitioner in support of the above contention.

4. Per contra, it is primarily contended by the University in the counter affidavit that the University cannot deviate from or ignore the prescribed qualification while making selection to the post. A Lecturer in Geology has to have Master's Degree in the relevant subject. The University has not recognised Master's Degree in Marine Geology from the CUSAT as equivalent to the Master's Degree in Geology. Ext.P5 issued by the University of Kerala only states that M.Sc (Marine

Geology) has been recognised for the purpose of appointment as Teachers in Geology in the affiliated colleges under the University. It is the case of the University that the notified post being that of Lecturer in the Department of Geology in the University, petitioner cannot draw any support from Ext.P5, since it relates only to the post of teachers in affiliated colleges and not in the University as such, where the thrust is more on research rather than on teaching. In short, the University in its counter affidavit has stoutly defended the action taken by it in rejecting the application submitted by the petitioner.

5. As noticed already, petitioner has raised a specific contention that the subjects of study in the two courses viz., Marine Geology and Geology are almost identical. According to the petitioner the subjects contained in the syllabus for the course in Marine Geology is heavier and wider as compared to the curriculum in Geology. Petitioner places reliance on Ext.P5 certificate issued by the University of Kerala and contends that M.Sc in Marine Geology has been recognised by the University as a sufficient qualification for the purpose of appointment as teachers in Geology Department in the affiliated colleges under it and therefore the University cannot now turn round and say that petitioner is not eligible for appointment.

6. In this context petitioner has also pointed out that she was in fact invited for interview held in connection with the selection to the same post during the year 2004. At that time the University had not raised any objection that the petitioner did not possess the requisite qualification. While admitting that petitioner was invited for interview in the year 2004 for the same post, it is contended by the University that the invitation extended to her at that time was because of an

oversight.

7. However it is pertinent to note that the University admits that in 2004 Dr.R.B.Manoj, a post Graduate in Zoology and Mr. Rajesh Raghunath, Post Graduate in Marine Geology from Mangalore University had been appointed as Lecturers in Geology in the year 2004 in the same selection process in which petitioner had also participated. According to the University the two candidates mentioned above were given appointment since they had produced equivalency certificates. Ext.R1(a) is stated to be an equivalency certificate issued by the Kerala University. But strangely it is seen that Ext.R1(a) is only an eligibility certificate which is similar to Ext.P5 produced by the petitioner.

8. In Ext.R1(a), the University of Kerala has certified that M.Sc in Marine Geology from the Mangalore University is recognised as equivalent to M.Sc Geology Degree of the Kerala University. Nothing has been stated by the University as to why a similar treatment cannot be given to the Master's degree granted by the CUSAT in the same subject. In Ext.P12 the CUSAT has certified that the Master's Degree in Marine Geology from CUSAT can be considered as equivalent to M.Sc Degree in Geology of any other University in Kerala for the purpose of employment and higher education. It is true that Ext.P12 was issued to a candidate named in the said certificate. But the fact remains that University of Kerala had recognised M.Sc Marine Geology as an eligible qualification for the purpose of appointment as Teachers in Geology. The contention raised by the University that Ext.P5 relates to only teacher's post in affiliated colleges and not in the University as such is, in my view, a spacious plea which is only liable

to be rejected.

9. There is yet another aspect of the matter. In Ext.P13 communication issued by the Kerala Public Service Commission it had been clarified that M.Sc (Marine Geology) course of the Cochin University (CUSAT) had been included as one of the eligible qualifications for candidates who apply for “Geological and related categories/services/Examinations”. The Commission had thus recognised M.Sc (Marine Geology) of the Cochin University as an eligible qualification. Further, the Government of Kerala in Ext.P14 had ordered that M.Sc (Marine Geology) of the Cochin University be recognised as equivalent to M.Sc or any equivalent degree in Geology.

10. Thus having regard to the entire facts and circumstances, with particular reference to the materials placed before me, I am satisfied that the stand taken by the University cannot be justified, particularly since it is evident from Ext.P7 and the counter affidavit filed by the University that there was no proper application of mind. As noticed already, the University had admittedly given appointment to Dr.Manoj and Sri.Rajesh Raghunath as Lecturer in Geology in the year 2004 though they had obtained Master's degree in Zoology and Marine Geology respectively, as discernible from the counter affidavit itself. According to the University, those two candidates had produced equivalency certificates. Those certificates have not been produced before this Court. Interestingly, Ext.R1(a) has been pressed into serviced by the University along with the counter affidavit. The said certificate which is styled as eligibility certificate (as is the case with Ext.P5) states that M.Sc Marine Geology from Mangalore University had been recognised as equivalent to M.Sc Geology of the Kerala

University. If that be the case, there is no reason why the certificate granted by the CUSAT cannot be given a similar treatment. No reasons have been stated by the University in the counter affidavit in this regard. It has to be remembered that CUSAT has issued Ext.P12 certificate stating that M.Sc in Marine Geology of the said University can be considered as equivalent to M.Sc Degree in Geology of any other University in Kerala for the purpose of employment or higher education. If Exts.P13 and P14 are also taken into account, I do not find any reason why the candidature of the petitioner should not have been favourably considered for the purpose of selection. Therefore Ext.P7 is quashed.

11. In my view, the University has to consider the matter afresh in the light of the observations made above and also in Exts.P12 to P14 documents. There is nothing on record to show that the Academic Council of the University or such other statutory body under it dealing with such matters had been consulted by the University before issuing Ext.P7. It will be only appropriate that the University takes a decision in the matter after ascertaining the views of the competent academic body of the University in the matter. It will also be appropriate that the views of the CUSAT is also ascertained before a final decision is taken. This shall be done by the University as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this judgment. I am persuaded to take the above view since the issue falls in the realm of an academic matter.

12. Though petitioner has placed heavy reliance on a judgment rendered by me in O.P.7408/2001 and contended that a similar declaration can be issued in this case as well, in the peculiar facts and

circumstances of this case I am satisfied that it should be left to the University itself to take a final decision. While taking the decision, the University shall keep in view all the above aspects referred to in this judgment. Till such time a decision is taken by the University, the interim order passed by this Court on March 29, 2006 shall remain in force.

Writ Petition is disposed of in the above terms.

A.K. Basheer
Judge.

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